UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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CLARENCE BEAVER and JOSEPH STILWELL,

Plaintiffs,

v.

COUNTY OF BUTTE; BUTTE COUNTY SHERIFF'S OFFICE; SHERIFF KORY L. HONEA, in his individual capacity; DEPUTY PEREZ, in his individual capacity; DEPUTY WALBERG, in his individual capacity; SERGEANT J. BEHLKE, in his individual capacity; CORRECTIONAL OFFICERS JOHN DOE 1-10; WELLPATH, LLC; CALIFORNIA FORENSIC MEDICAL GROUP,

Defendants.

No. 2:20-cv-00279 WBS DB

ORDER RE: DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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Plaintiffs Clarence Beaver and Joseph Stilwell brought this action against defendants County of Butte ("the County"); the Butte County Sheriff's Office; Sheriff Kory L. Honea; Deputy Esteban Perez; Deputy Chadwick Walberg; Sergeant Jason Behlke;

Wellpath, LLC; and California Forensic Medical Group (collectively, "defendants") alleging negligence and violation of their Eighth and Fourteenth Amendment rights under 42 U.S.C. § 1983.[1] (Second Amended Complaint ("SAC") (Docket No. 21).) Before the court is defendants' motion for summary judgment. (Docket No. 29-1.)

I. Factual and Procedural History

In early 2019, plaintiff Beaver was an inmate at the Butte County Jail and plaintiff Stilwell was a pretrial detainee there. (Pls.' Resp. to Defs.' Statement of Undisp. Facts at ¶ 1 ("Resp.") (Docket No. 37-2); SAC at ¶¶ 6-7.) Both were housed in G-Pod, a dormitory-style housing unit for inmates classified as requiring medium-security housing. (Resp. at ¶¶ 2-3.)

On February 6, 2019, Antonio Hernandez was booked into the jail on charges of felony domestic violence. (Id. at ¶ 4.) Hernandez went through the jail's initial inmate classification process upon admission. (Id. at ¶¶ 5-7.) The process entails an interview by a classification officer and completion of a worksheet, the results of which are processed by an algorithm to yield a score indicating whether the inmate should be placed in minimum-, medium-, or maximum-security housing. (Id.) The interviewing officer may then deviate from that assignment based on his subjective assessment during the interview. (Id. at ¶ 8.)

The algorithm assigned Hernandez the minimum score necessary to designate him as requiring maximum-security housing;

[1] Defendants Wellpath, LLC and California Forensic Medical Group have since been dismissed from the case pursuant to a stipulation by the parties. (Docket Nos. 35-36.)

however, based on Hernandez's demeanor during the interview, lack of a history of fighting or discipline in jail, and work history, the officer overrode that designation and instead classified him as requiring medium-security housing. (Id. at ¶¶ 8-14.)[2] That decision was reviewed and approved of by another classification officer and by a supervisory sergeant. (Id. at ¶¶ 15-17.)

After being initially assigned to the L-Pod housing unit, Hernandez requested to be reassigned to J-Pod. (Id. at ¶ 18.) However, after reporting that he feared for his safety there and sought to be placed on suicide watch because of anxiety, Hernandez was evaluated and moved to a single-occupancy cell for two weeks pursuant to the jail's suicide prevention protocol. (Id. at ¶¶ 19-21.) While there, he was frequently assessed and underwent weekly classification reviews, and after two weeks the reviewing officer concluded that, based on the lack of recent incidents, Hernandez could be moved back into the general population, again in medium-security housing. (Id. at ¶¶ 20-24.) On February 25, the following day, pursuant to that decision officers attempted to move Hernandez into M-Pod, but Hernandez refused to be housed there for reasons he would not explain. (Id. at ¶¶ 25-29.) Hernandez was then reassigned to G-Pod, another medium-security housing unit. (Id. at ¶¶ 3, 30-31.)

Beaver testified that in the following days before March 7, Hernandez did not threaten him or other inmates and was not involved in any physical altercations. (Id. at ¶ 33.)

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[2] Hernandez's inmate records also indicated that he had reported having bipolar disorder, experiencing mood swings, and a desire to speak to a mental health professional. (Id. at ¶¶ 11-14; Pls.' Ex. B at 6, 55 (Docket No. 38-1).)

However, Beaver and Stilwell believed that Hernandez had issues with his mental health, and on one occasion Stilwell heard Hernandez muttering to himself about hurting people; Stilwell testified that he believed he alerted a correctional officer to this, though he could not recall whom or when. (Id. at ¶¶ 32-33, 35-36; Stilwell Depo. at 41:9-14 (Docket No. 38-3).) Prior to March 7, 2019, defendants Perez, Wahlberg, and Behlke all either had not encountered Hernandez or had not experienced any incidents with him, and two other correctional officers have given similar testimony. (Resp. at ¶¶ 39-43.) The only item in Hernandez's classification file documenting disobedience or other misbehavior was regarding his refusal to remain in M-Pod on February 25. (Id. at ¶ 38.)

During the early morning hours of March 7, 2019, Perez was on duty at the observation and control tower for the floor that included G-Pod. (Id. at ¶ 44.) At approximately 2:55:22 a.m., Perez saw Hernandez in G-Pod's day room walking toward the bunk area. (Id. at ¶¶ 45-47.) Perez testified that the policy after lights-out allows inmates to be in the day room until 11:30 p.m., and that ordinarily, if Perez saw an inmate "just walking around" or loitering in the day room after that time, Perez would instruct him via intercom to return to his bunk. (Id. at ¶¶ 48-50.) Perez also testified that it was common for inmates to go into the day room throughout the night to retrieve possessions they had left there. (Id. at ¶ 48.) Perez did not say anything to Hernandez via the intercom on this occasion. (Perez Depo. at 20:10-12 (Docket No. 38-5 at 5).)

When Perez saw Hernandez, Perez was observing G-Pod

through the glass window in the observation tower, rather than via a video feed accessible on a monitor in the tower. (Resp. at ¶¶ 52-53.) Perez could have activated the video feed, which would have required him to look away from Hernandez and navigate through three or four menus on a control panel, but he did not. (Id. at ¶¶ 53-54.) Perez's direct view of G-Pod was darker than it appeared on the video feed, and Perez did not see anything in Hernandez's hand as he walked toward the bunks. (Id. at ¶¶ 55-56.) Perez lost sight of Hernandez as Hernandez entered the bunk area, which was darker than the day room, and next noticed a "scuffling of individuals" among the bunks. (Id. at ¶¶ 57-58.)[3]

Within a few seconds Perez reported a physical altercation in G-Pod via radio, and the lights soon turned on in the unit. (Id. at ¶¶ 58-60.) Within around 30 seconds of Perez's call, correctional officers began entering G-Pod; eight officers responded in total, including Behlke and Walberg. (Id. at ¶¶ 61, 66-67.) Officers observed Stilwell on the ground, bleeding, and Beaver on his bunk holding a sheet to his face, which was also bleeding. (Id. at ¶¶ 68-69.) Beaver and Stilwell stated that Hernandez had assaulted them, and Hernandez was quickly restrained; video later revealed that Hernandez had beaten plaintiffs with a broom head and using his fist. (Id. at ¶¶ 68-70, 73.) Nurses assessed plaintiffs' injuries within a few

[3] Although Perez temporarily lost sight of Hernandez, he testified that he did not turn his attention away from G-Pod until after the incident concluded. (Id. at ¶ 65.) Prior to observing Hernandez walking toward the bunks, Perez had been reviewing a piece of outgoing inmate mail, a regular part of his night shift duties that he performed while intermittently looking up to monitor the housing units. (Id. at ¶¶ 62-64.)

minutes and had plaintiffs sent to a hospital for treatment. (Id. at ¶ 71.) Hernandez was handcuffed and taken to an interview room. (Id. at ¶ 75.)

In March of 2019, the Butte County Sheriff's Office was party to a stipulated consent decree setting forth procedures to avoid overcrowding in the jail, including by requiring the jail to maintain an Own Recognizance Program through which it followed detailed guidelines in determining the order in which to release inmates. (Id. at ¶¶ 91-96.) The consent decree requires that both the overall jail population and each housing unit not exceed maximum capacity at any time. (Id. at ¶ 99.) It further requires that each inmate be provided a bed "in the appropriate classification." (Id. at ¶ 98.) It allows the Sheriff to re-house inmates, to avoid having to release others because of unit population limits, "so long as any inmate so re-housed i[s] placed in a housing unit consistent with said inmate's classification." (Id. at ¶¶ 98-100.)

In 2015, Sheriff Honea submitted a letter to the Butte County Board of Supervisors requesting funding for a new jail, stating in part:

> The jail currently has an inmate population in which nearly half the detainees (48.4%) require high-security housing. The jail, however, currently only contains 31 cells which can accommodate this inmate population. The other housing in the facility includes double-occupancy cells and dormitory beds/bunks. Only 18.5% (111) of inmates are classified as requiring minimum security dormitory housing beds. In contrast, the jail is configured with 421 dormitory-style beds which account for 68.6% of available housing. This stark difference in inmate security classifications compared to the type of custody beds contained in the jail not only complicates classification decisions, but places the safety of inmates, staff, and visitors at higher risk.

(Pls.' Ex. A at 6-7 (Docket No. 38).)

II. Legal Standard

Summary judgment is proper "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). A material fact is one "that might affect the outcome of the suit under the governing law," and a genuine issue is one that could permit a reasonable trier of fact to enter a verdict in the non-moving party's favor. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). The moving party bears the initial burden of establishing the absence of a genuine issue of material fact and may satisfy this burden by presenting evidence that negates an essential element of the non-moving party's case. See Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). Alternatively, the movant may demonstrate that the non-moving party cannot provide evidence to support an essential element upon which it will bear the burden of proof at trial. Id. The burden then shifts to the non-moving party to set forth specific facts to show that there is a genuine issue for trial. See id. at 324. Any inferences drawn from the underlying facts must, however, be viewed in the light most favorable to the non-moving party. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

III. Discussion

In the operative complaint, plaintiffs assert five claims against defendants: (1) negligent supervision, training, hiring, and retention against the County and Sheriff Honea; (2) municipal liability against the County, Honea, and the

Sheriff's Office; (3) deliberate indifference against Perez, Walberg, and Behlke; (4) denial of adequate medical care[4]; and (5) negligence against all County defendants. (SAC at ¶¶ 21-41.) The court will begin with plaintiffs' federal claims.

A. Federal Claims Against Individual Officers

In response to plaintiffs' deliberate indifference claim, defendants Perez, Walberg, and Behlke assert the defense of qualified immunity. (Mot. at 23-24.) In actions under 42 U.S.C. § 1983, the defense of qualified immunity "protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" Pearson v. Callahan, 555 U.S. 223, 231 (2009) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)). "In determining whether a state official is entitled to qualified immunity in the context of summary judgment, [courts] consider (1) whether the evidence viewed in the light most favorable to the plaintiff is sufficient to show a violation of a constitutional right and (2) whether that right was 'clearly established at the time of the violation.'" Sandoval v. Cnty. of San Diego, 985 F.3d 657, 671 (9th Cir. 2021) (citation omitted).

The court has discretion to decide which prong to address first and, if analysis of one proves dispositive, the

[4] Because this claim primarily challenged acts and omissions by Wellpath, LLC and California Forensic Medical Group, which have been dismissed as defendants from this case, plaintiffs do not oppose summary judgment as to this claim. (See Opp. at 17 (Docket No. 37).) The court will therefore grant summary judgment for defendants on plaintiffs' claim for denial of medical care.

court need not analyze the other. See Pearson, 555 U.S. at 236. Here, the court will exercise its discretion to analyze the second prong first: whether defendants' conduct violated a clearly established constitutional right.

1. Clearly Established Right

"A right is clearly established when it is 'sufficiently clear that every reasonable official would have understood that what he is doing violates that right.'" Rivas-Villegas v. Cortesluna, 142 S. Ct. 4, 7 (2021) (quoting Mullenix v. Luna, 577 U.S. 7, 11 (2015)). When determining whether a right is clearly established, the court may not "define clearly established law at a high level of generality." Kisela v. Hughes, 138 S. Ct. 1148, 1152 (2018) (quoting Ashcroft v. al-Kidd, 563 U.S. 731, 742 (2011)). Rather, "[t]his inquiry 'must be undertaken in light of the specific context of the case, not as a broad general proposition.'" Rivas-Villegas, 142 S. Ct. at 8 (citation omitted); see White v. Pauly, 137 S. Ct. 548, 552 (2017) ("[T]he clearly established law at issue must be particularized to the facts of the case.").

The Eighth Amendment provides a right for incarcerated individuals to be protected from violence at the hands of other inmates. Farmer v. Brennan, 511 U.S. 825, 832-33 (1994). The Fourteenth Amendment's Due Process Clause provides an analogous right for pretrial detainees, given that they have not been convicted of a crime and therefore do not fall within the ambit of Eighth Amendment protections. See Castro v. Cnty. of Los Angeles, 833 F.3d 1060, 1067 (9th Cir. 2016) (en banc).

In opposing qualified immunity, plaintiffs argue that,

under Farmer and Castro, they "had a right to be safe and secure pursuant to the Eighth Amendment" and that the unconstitutionality of the Perez's, Walberg's, and Behlke's conduct was thus clearly established. (Opp. at 18 (Docket No. 37).) However, in so doing they seek to "define clearly established law at a high level of generality," rather than "in light of the specific context of the case," which the Supreme Court has repeatedly directed courts not to do. Kisela, 138 S. Ct. at 1152; Rivas-Villegas, 142 S. Ct. at 8. Rather, for qualified immunity to be overcome, existing case law must have identified a constitutional violation in circumstances sufficiently similar to those in this case that defendants here would have been on notice that their conduct was unlawful. Sandoval, 985 F.3d at 674. Plaintiffs have not shown this is the case.

At oral argument, when asked which prior court decisions would have best put defendants on notice that their conduct was unconstitutional, counsel for plaintiffs pointed to Farmer. There, the plaintiff, a transgender woman, was placed in the general population of a penitentiary for male prisoners. Farmer, 511 U.S. at 829-30. The Court noted that "penitentiaries are typically higher security facilities that house more troublesome prisoners than federal correctional institutes." Id. at 830. Within two weeks, the plaintiff was beaten and raped by another inmate in her cell. Id. She brought a claim against various federal prison officials under Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), alleging the defendants were deliberately indifferent to the risk of harm she

would face based on their knowledge "that the penitentiary had a violent environment and a history of inmate assaults" and that plaintiff, "who 'project[ed] feminine characteristics,' would be particularly vulnerable to sexual attack by [other] inmates." Farmer, 511 U.S. at 831.

In Farmer, the Court merely clarified the meaning of "deliberate indifference" in the Eighth Amendment context and remanded for further proceedings in light of that clarification; it did not hold that defendants' conduct in fact amounted to a constitutional violation. See id. at 832-49. Even if it had, because of the significant differences between Farmer and this case, Farmer could not have put defendants here on notice that their conduct was unconstitutional. Specifically, plaintiffs here have not pointed to a noteworthy history of violent assaults within the jail's medium-security housing or argued that they had characteristics that made them especially vulnerable to assault. Accordingly, Farmer did not clearly establish the unconstitutionality of defendants' conduct in this case.

In Castro, the other case plaintiffs point to in challenging qualified immunity, the plaintiff, who was highly intoxicated, was placed in a sobering cell at a police station, where a second, "combative" arrestee was then also placed. Castro, 833 F.3d at 1065. After the second arrestee entered the cell, the plaintiff pounded on the window on the door for a full minute to attract an officer's attention, but none came even though one was seated at a desk nearby. Id. at 1065, 1073. Twenty minutes later, an unpaid volunteer assigned to monitor the cell noticed the second arrestee inappropriately touching the

plaintiff and reported it to an officer, who went to check on the plaintiff six minutes later and found him severely beaten. Id. at 1065. The court concluded that the defendants' conduct was objectively unreasonable given that the defendants knew the plaintiff "was too intoxicated to care for himself," knew the second arrestee "was enraged and combative," knew "the jail's policies forbade placing the two together in the same cell in those circumstances," failed to respond to the plaintiff pounding on the cell door, and delegated safety checks to a volunteer. Id. at 1073.

Here, prior to the attack itself, the undisputed facts show that neither Perez, Walberg, nor Behlke had received any indication that Hernandez posed a threat to other inmates. Although in their opposition plaintiffs emphasize that defendants were aware that Hernandez had "mental issues" and had asked to be placed on suicide prevention protocol, at most this would have suggested that he was a danger to himself, rather than to others. Nor do the undisputed facts, viewed in the light most favorable to plaintiffs, indicate that these defendants failed to quickly respond once the existence of a threat to plaintiffs became apparent: Perez radioed for help within seconds of seeing signs of a conflict, and Walberg and Behlke arrived within thirty to sixty seconds of Perez's call. And although plaintiffs argue that Perez failed to adequately monitor them by virtue of the fact that he was reviewing inmate mail while on watch duty, Perez's deposition testimony shows that he was in fact watching Hernandez during the leadup to the encounter. These facts stand in contrast to Castro, where law enforcement officials neglected

to check on the plaintiff for at least twenty minutes, were oblivious to his clear attempts to get their attention, and had delegated responsibility for monitoring him to a volunteer.

In sum, these circumstances are not sufficiently similar to those in Castro for that decision to have put defendants on notice that their conduct violated plaintiffs' constitutional rights in this case. Nor has this court been able to identify any other Ninth Circuit or Supreme Court precedent finding a constitutional violation in circumstances closer to these. Accordingly, the unconstitutionality of the individual defendants' conduct was not clearly established, meaning they are entitled to qualified immunity. The motion for summary judgment will therefore be granted as to plaintiffs' claims for deliberate indifference against defendants Perez, Walberg, and Behlke.

B. Municipal Liability

Plaintiffs allege that the County, the Sheriff's Office, and Honea "had a policy and practice of neglecting inmate health and safety, by allowing the inmates all to be herded into a single space indiscriminately, as though they were cattle, without any consideration as to the level of danger posed by the mental health conditions of any of the inmates." (SAC at ¶ 26.) In their opposition, they explain that the policy is elucidated by Honea's 2015 letter to the Board of Supervisors, in which he stated that a lack of sufficient housing at the jail to house all prisoners in accordance with their security classifications "complicates classification decisions" and "places the safety of inmates . . . at higher risk." (Opp. at 12, 19-20.) In other words, they argue that the jail's policy of adhering to the

consent decree under these circumstances, thereby preventing it from "provid[ing] housing accommodations . . . appropriate for each individual inmate with known physical and/or mental conditions," led to the attack plaintiffs experienced. (See id.)

To state a § 1983 claim against a municipality, a plaintiff must allege "(1) that he possessed a constitutional right of which he was deprived; (2) that the municipality had a policy; (3) that this policy 'amounts to deliberate indifference' to the plaintiff's constitutional right; and (4) that the policy is the 'moving force behind the constitutional violation.'" Oviatt ex rel. Waugh v. Pearce, 954 F.2d 1470, 1474 (9th Cir. 1992) (quoting City of Canton v. Harris, 489 U.S. 378, 389-91 (1989)). "'Municipal liability under § 1983 attaches where -- and only where -- a deliberate choice to follow a course of action is made from among various alternatives' by [municipal] policymakers." Canton, 489 U.S. at 389 (quoting Pembaur v. City of Cincinatti, 475 U.S. 469, 483-84 (1986) (plurality opinion)). The "first inquiry in any case alleging municipal liability under § 1983 is the question whether there is a direct causal link between a municipal policy or custom and the alleged constitutional deprivation." Id. at 385.

As an initial matter, to the extent plaintiffs' claim posits that defendants' adherence to an enforceable consent decree itself constitutes an unlawful policy, plaintiffs do not explain how such adherence constitutes "a deliberate choice . . . from among various alternatives," given that defendants are legally bound to abide by the consent decree's terms. Id. at 389. It is not apparent, nor do plaintiffs suggest, what

"alternatives" to adherence in fact exist.

Plaintiffs relatedly argue that, pursuant to this policy, defendants routinely place inmates in housing of a different security class than that for which they have been classified. (See Opp. at 12, 19-20.) However, even assuming the evidence supports the existence of such a practice, plaintiffs fail to demonstrate how it in fact caused them to be attacked by Hernandez. Pursuant to the jail's inmate classification procedures, upon admission Hernandez was classified as requiring medium-security housing. Plaintiffs had been likewise classified, and G-Pod -- the housing unit into which plaintiffs and Hernandez had all been assigned -- was a medium-security housing unit. (Resp. at ¶ 3.) There is therefore no showing that Hernandez was placed in a housing unit of a lower security level than his classification called for, as would be necessary to show that defendants' decisions regarding his placement conformed to the alleged unconstitutional policy. It cannot be the case that a policy of placing inmates in lower-security housing than their classifications called for caused plaintiffs' injuries where such a policy was not actually carried out in Hernandez's case. See Canton, 489 U.S. at 385.

Further, insofar as plaintiffs argue the alleged policy entailed a failure to place inmates identified as having mental health issues posing a risk to others in segregated housing, (see Opp. at 20 (contending that the jail had "no room . . . to accommodate someone like Antonio Hernandez who they knew had mental health issues" and that he "c[ould] not be accommodated for his special needs")), they have not shown that Hernandez was

so identified or that the jail's screening measures were inadequate. The undisputed evidence shows that Hernandez reported to jail staff that he wished to be put on suicide watch and that this was promptly done, resulting in him being placed in protective custody for two weeks, where he received frequent mental health assessments and weekly classification reviews. Plaintiffs identify no deficiency in these procedures that, if corrected, would have demonstrated to jail officials that Hernandez posed a threat to other inmates and that medium-security housing was no longer suitable for him.[5]

Finally, plaintiffs note that Honea's 2015 letter to the Board of Supervisors suggests that, because of insufficient cells specifically designed to serve as "high-security housing," many inmates who fall into this category are instead assigned to more abundant dormitory-style beds, which the letter indicates are designed to accommodate inmates classified as requiring minimum-security housing. (See Opp. at 19-20.) However, the

[5] Although plaintiffs emphasize that Hernandez was temporarily placed in an interview room, rather than in administrative segregation, after he refused to be housed in M-Pod, they do not show that Hernandez would have been housed in administrative segregation on the day of the attack but for this lack of space. Nor do they show that any systemic failure of the jail's mental health evaluation process led it to erroneously conclude that administrative segregation was not required in Hernandez's case.

Further, even if Stilwell reported that Hernandez was muttering statements to himself suggesting he wanted to hurt others -- Stilwell testified that he believed he reported this to jail officials, though he could not remember who (Stilwell Depo. at 41:9-14) -- this alone is insufficient to create a triable issue of fact as to whether the jail had mental health evaluation policies evincing deliberate indifference to the risk mentally unwell inmates posed to others.

letter does not indicate whether dormitory housing beds are likewise suitable for medium-security housing, or whether that level of security requires some other type of housing arrangement. Accordingly, it is not clear that medium-security inmates have, as a matter of jail policy, been placed in insufficiently secure housing.

More importantly, even assuming the jail's housing practices and conformity with the consent decree could have caused medium-security inmates to be placed in insufficiently restrictive minimum-security housing, the undisputed evidence does not present a genuine issue of material fact as to whether this practice "amounts to deliberate indifference" to safety risks it presents. Canton, 489 U.S. at 389. Honea's letter itself demonstrates that he actively petitioned the legislature for a new facility that would remedy the housing insufficiencies he identified, (see Opp. at 20 (describing Honea as "sounding the alarm" by submitting the letter)), and the fact that he was apparently unsuccessful does not mean his consequent reliance on the existing facility constituted deliberate indifference. See Canton, 489 U.S. at 389 (municipal liability requires a "deliberate choice to follow a course of action . . . from among various alternatives"); cf. also Peralta v. Dillard, 744 F.3d 1076, 1082-83 (9th Cir. 2014) (en banc) (in § 1983 actions seeking damages, courts consider lack of resources available to defendants in evaluating whether practices or decisions demonstrate deliberate indifference, given that whether officials' conduct may be so characterized "depends on the constraints facing [them]") (quoting Wilson v. Seiter, 501 U.S.

294, 302 (1991)).

For the foregoing reasons, viewing the evidence in the light most favorable to plaintiffs, plaintiffs have failed to present a genuine issue of material fact as to whether the County, the Sheriff's Office, and Sheriff Honea maintained an unconstitutional policy or custom that caused plaintiffs' injuries. Accordingly, the court will grant summary judgment to defendants on this claim.

C. Negligence Claims

Because the court will grant summary judgment for defendants on plaintiffs' federal claims, the court no longer has federal question jurisdiction, and there is no suggestion that there is diversity jurisdiction in this case. Federal courts have "supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). A district court "may decline to exercise supplemental jurisdiction . . . [if] the district court has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c).

In determining whether to retain jurisdiction over state law claims when all federal claims have been eliminated before trial, courts balance factors of judicial economy, convenience, fairness, and comity. Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7 (1988). Here, these factors weigh in favor of retention inasmuch as this case has now been pending in this court for over two years, and the court has already adjudicated prior motions. Accordingly, to remand the remaining

claims to state court would be a poor use of judicial resources and inconvenient to the parties who have spent considerable time litigating in this court. The court will therefore retain jurisdiction over plaintiffs' state-law claims.

In those claims, plaintiffs have alleged negligence against the County defendants, including against Honea and the County under a theory of negligent supervision, training, hiring, and retention. (SAC at ¶¶ 21-24, 36-41.) As defendants have noted, however, and as discussed at oral argument, public entities in California are not liable for injuries they or their employees cause, whether through acts or omissions, except as otherwise provided by statute. Cal. Gov. Code § 815. "[D]irect tort liability of public entities must be based on a specific statute declaring them to be liable, or at least creating some specific duty of care . . . ." Eastburn v. Reg'l Fire Prot. Auth., 31 Cal. 4th 1175, 1183 (2003). "Otherwise, the general rule of immunity for public entities would be largely eroded by the routine application of general tort principles." Id. (citations omitted). Because neither plaintiffs nor the court have identified a California statute providing for liability against the County or the Sheriff's Office under these circumstances, summary judgment will be granted for these defendants on plaintiffs' negligence claims.

On the other hand, defendants have identified no statutory basis on which to bar plaintiffs' negligence claims as against the individual defendants. Whether a defendant is negligent under California law is ordinarily a question of fact. Peri v. L.A. Junction Ry., 22 Cal. 2d 111, 120 (1943); Huang v.

The Bicycle Casino, Inc., 4 Cal. App. 5th 329, 344 (2d Dist. 2016) (breach of duty and causation are issues for trier of fact) (citations omitted); Nichols v. Keller, 15 Cal. App. 4th 1672, 1687 (5th Dist. 1993) ("Like breach of duty, causation also is ordinarily a question of fact which cannot be resolved by summary judgment."). Here, as the court explained at oral argument, plaintiffs' claims for negligence against the individual defendants are highly fact-bound, making adjudication of those claims inappropriate on summary judgment. Given the factual issues present in this case, summary judgment on these claims will be denied.

IT IS THEREFORE ORDERED that defendants' motion for summary judgment (Docket No. 29-1) be, and the same hereby is, GRANTED on plaintiffs' federal claims under § 1983.

IT IS FURTHER ORDERED that defendants' motion be, and the same hereby is, GRANTED on plaintiffs' claims for negligence as against defendants Butte County and Butte County Sheriff's Office, and DENIED in all other respects.[6]

Dated: April 21, 2022

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

[6] Because the court does not rely on the contents of the documents attached to defendants' request for judicial notice (Docket No. 29-25) in deciding this motion, the request is DENIED AS MOOT.